

# HOUSE BILL REPORT

## HB 2748

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**As Reported by House Committee On:**  
Criminal Justice & Corrections

**Title:** An act relating to the collection of biological samples for criminal investigations.

**Brief Description:** Expanding the collection of biological samples for criminal investigations.

**Sponsors:** Representatives Miloscia, O'Brien and Ericks.

**Brief History:**

**Committee Activity:**

Criminal Justice & Corrections: 1/27/06, 2/2/06 [DPS].

**Brief Summary of Substitute Bill**

- Expands the deoxyribonucleic acid (DNA) database to include DNA samples from persons convicted of certain misdemeanors.

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### HOUSE COMMITTEE ON CRIMINAL JUSTICE & CORRECTIONS

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 6 members: Representatives O'Brien, Chair; Pearson, Ranking Minority Member; Ahern, Assistant Ranking Minority Member; Kirby, Strow and Williams.

**Minority Report:** Do not pass. Signed by 1 member: Representative Darneille, Vice Chair.

**Staff:** Jim Morishima (786-7191).

**Background:**

The Washington State Patrol (WSP) operates and maintains a deoxyribonucleic acid (DNA) identification system. The purpose of the system is to help with criminal investigations and to identify human remains or missing persons. The system contains DNA samples from persons convicted of any felony and the following misdemeanors: stalking, harassment, and communicating with a minor for immoral purposes.

County and city jails are responsible for collecting biological samples for DNA analysis from offenders incarcerated in their facilities. The Department of Corrections and the Department of Social and Health Services are responsible for collecting biological samples for DNA analysis from offenders incarcerated in their facilities. Local police and sheriff's departments are responsible for collecting biological samples for DNA analysis from offenders who do not serve any term of incarceration.

A sentencing court must impose a fee of \$100 for the collection of a DNA sample upon every offender convicted of a felony unless such a fee would result in undue hardship on the offender. The fee is a legal financial obligation and is payable only after payment of all other legal financial obligations in the sentence.

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### **Summary of Substitute Bill:**

Persons convicted of the following misdemeanors and gross misdemeanors are added to the DNA database:

- Aiming or Discharging Firearms or Dangerous Weapons;
- Animal Cruelty in the second degree;
- Assault in the fourth degree;
- Coercion;
- Communication with a Minor for Immoral Purposes;
- Criminal Impersonation in the second degree;
- Custodial Sexual Misconduct in the second degree;
- Cyberstalking;
- Dangerous Weapons;
- Domestic Violence (any misdemeanor or gross misdemeanor committed by one family household member against another);
- Escape in the third degree;
- Harassment;
- Indecent Exposure;
- Making or Having Burglar Tools;
- Patronizing a Prostitute;
- Possession of Another's Identification;
- Prostitution;
- Reckless Burning in the third degree;
- Reckless Endangerment;
- Failure to Register as a Sex or Kidnapping Offender;
- Sexual Misconduct with a Minor in the second degree;
- Stalking;
- Telephone Harassment;
- Unlawful Harboring of a Minor;
- Vehicle Prowling in the second degree;
- A Violation Involving a Weapon Apparently Capable of Producing Bodily Harm;
- A Violation of a Civil Antiharassment Order; and
- A Violation of Certain Protection Orders.

The DNA sample does not have to be collected if the WSP already has a DNA sample on file for the individual in question.

A sentencing court must impose a fee of \$100 for the collection of a DNA sample upon every offender convicted of one of the crimes listed above unless to do so would be an undue

hardship on the offender. The fee is a legal financial obligation and is payable only after payment of all other legal financial obligations.

**Substitute Bill Compared to Original Bill:**

The substitute bill removes the following misdemeanors from the list of crimes added to the DNA database: Malicious Mischief in the third degree; Possession of Stolen Property in the third degree; Riot; Theft in the third degree; and Hit and Run.

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**Appropriation:** None.

**Fiscal Note:** Preliminary fiscal note available.

**Effective Date of Substitute Bill:** The bill takes effect 90 days after adjournment of session in which bill is passed.

**Testimony For:** The use of the DNA database helps law enforcement identify persons who have committed unsolved crimes. It also can help exonerate innocent people as well. This is the future of law enforcement. The DNA database has been a useful tool for law enforcement. A sample is only collected if someone is convicted. There is no stigmatization of persons in the database because there is no publication of the sample. The only time the DNA sample is used is if there has been another crime committed. The crimes on the list in this legislation are all serious crimes that can indicate a predilection to commit more serious crimes. Some of the crimes on the list are crimes that are pled down to when a more serious crime is charged.

**Testimony Against:** None.

**Persons Testifying:** Representative Miloscia, prime sponsor; Tom McBride, Washington Association of Prosecuting Attorneys; and Barry Logan, Washington State Patrol.

**Persons Signed In To Testify But Not Testifying:** None.